

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

SHANNON CLEMMONS	)	
	)	
v.	)	No. 3-08-0811
	)	
RON SMITH; SMITH MANAGEMENT	)	
PARTNERS, LLC; PRECIOUS	)	
MOMENTS COMPANY, INC.; and	)	
PRECIOUS MOMENTS FAMILY OF	)	
COMPANIES, INC.	)	

ORDER

By order entered September 19, 2008 (Docket Entry No. 57), counsel for the parties were directed to appear before the Magistrate Judge immediately after oral argument scheduled on September 19, 2008, before the Honorable John T. Nixon. However, the September 19, 2008, oral argument was cancelled by order entered September 23, 2008 (Docket Entry No. 60), and, with agreement of the Court and the parties, the initial case management conference, scheduled on October 6, 2008, was CANCELLED, and counsel for the parties appeared before the Magistrate Judge on October 7, 2008, after a status conference before Judge Nixon, at which time the following matters were addressed:

1. The motion to amend filed by defendants Ron Smith and Smith Management Partner, LLC (Docket Entry No. 58) is GRANTED.

The Clerk is directed to file and docket the defendants' amended answer (Docket Entry No. 58-1).

2. The parties reported that, at the status conference on October 7, 2008, Judge Nixon granted the motion to expedite summary judgment briefing filed by the Precious Moments defendants (Docket Entry No. 71), scheduled a hearing on October 9, 2008, on the motion to compel filed by the Precious Moments defendants (Docket Entry No. 65), and rescheduled the pretrial conference from October 20, 2008, to October 21, 2008, at 1:00 p.m.

The Magistrate Judge neglected to address filings to be made by the parties prior to the pretrial conference, as provided in the September 19, 2008, order, including any motions in limine,

a proposed pretrial order, proposed jury instructions and other filings, other than those already addressed by the Court, prefatory to the pretrial conference and the trial.

Unless otherwise ordered, the following deadlines shall apply:<sup>1</sup>

1. The parties shall have until October 13, 2008, to file any motions in limine and any Daubert motions and/or motions relating to expert testimony.

2. By October 17, 2008, counsel for a party offering a deposition to be used at trial as the basic testimony of a witness shall advise opposing counsel of those portions of the deposition transcript to be read to or those portions of video deposition to be played to the jury, in accord with Local Rule 32.01.

3. By October 17, 2008, the parties shall file and serve lists of expected witnesses and exhibits in accord with Rule 26(a)(3)(A)(i) and (iii) of the Federal Rules of Civil Procedure.<sup>2</sup>

4. By October 17, 2008, the parties shall file any responses to motions in limine and responses to any Daubert motions and/or motions relating to expert testimony.

5. By October 17, 2008, the parties shall file a listing of all agreed stipulations and a proposed joint, pretrial order, which shall include (1) a recitation that the pleadings are amended to conform to the pretrial order and that the pretrial order supplants the pleadings; (2) a short summary of the plaintiff's theory (no more than one page); (3) a short summary of the defendants' theory (no more than one page for the Smith defendants and no more than one page for the Precious Moments defendants); (4) the issues to be submitted to the Court and the jury; (5) any anticipated evidentiary issues; and (6) a statement that the parties have complied with the provisions of this order.

---

<sup>1</sup> When indicated, the deadlines are provided in the Local Rules of Court and/or the Federal Rules of Civil Procedure. Other deadlines, not specifically provided in those rules, are also established based on the available time frame.

<sup>2</sup> Rule 26(a)(3) provides that these disclosures must be made at least 30 days before trial unless otherwise ordered. Since there are not 30 days prior to the October 28, 2008, trial, the Court has set this deadline to coincide with the deadline for designating depositions.

6. The parties shall have until October 21, 2008, to file any evidentiary objections to deposition testimony, in accord with Local Rules 32.01(b) and 39.01(d) and Rule 26(a)(3)(B) of the Federal Rules of Civil Procedure.

7. Unless otherwise ordered by the Court at the pretrial conference on October 21, 2008, the parties shall have until October 23, 2008, to file pretrial briefs in accord with Local Rule 7.01(e)(7).

8. The parties shall file proposed jury instructions, any special interrogatories, and any special verdict forms no later than 9:00 a.m. on October 28, 2008, in accord with Local Rule 51.01.

9. The parties shall file any depositions to be used at trial on October 28, 2008, with the courtroom deputy for Judge Nixon.

It the parties want to adjust any of these deadlines, they may file a joint motion to amend this order or schedule a telephone conference call with the undersigned. However, unless otherwise ordered, the above deadlines shall apply.

It is so ORDERED.

  
JULIET GRIFFIN  
United States Magistrate Judge